

Revenue Information Bulletin

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Individual and Corporation Income Tax

Frequently Asked Questions Relating to the Emergency Rule on Alternative Fuel Credit

On April 30, 2012, the Department released an Emergency Rule which discusses the requirements and eligibility for the Alternative Fuel Credit statute listed under R.S. 47:6035. Below you will answers to questions that have been frequently asked of the Department regarding this emergency rule?

1. Can you please advise whether Flex Fuel vehicles qualify for the alternative fuel credit? These vehicles can use either gasoline or ethanol? LAC 61:I.1912.B states that the credit is allowed when a taxpayer purchases a vehicle that its original and only use is to operate on an alternative fuel (meaning if the vehicle uses gasoline it would not qualify). However, there is a list of vehicles that reference fuel type (E85 FFV) which is equivalent to Flex Fuel. Can you please advise whether the vehicles considered Flex Fuel would qualify for this tax credit, since they use gasoline as well as the alternative fuel?

The statute does not preclude or prohibit flex fuel vehicles or E85 flex fuel vehicles from qualifying for the credit. Further, the rule creates a rebuttable presumption that if a flex fuel or E85 flex fuel vehicle is listed on the website of the Department of Energy, then the vehicle is one that meets the standards set forth in the statute and thereby qualifies it for the credit. If your vehicle is not listed on the website, it may still qualify for the credit. However, the Department will have to verify that the vehicle is really a flex fuel vehicle, emits lower emissions than a gasoline or diesel vehicle and meets or exceeds the federal clean air standards.

Also, the statute does not prohibit a vehicle that can run on gas and flex fuel from qualifying for the credit. R.S. 47:6035(B)(3) implies the incremental cost of the equipment that is related to the capability of using an alternative fuel qualifies for the credit; but, the cost that is related to using gasoline does not qualify. In short, the statute does not exclude a vehicle from qualifying for the credit simply because it can operate on gasoline and alternative fuel. However, the credit is limited to the equipment that can operate on the alternative fuel.

2. In Part I, paragraph B, the following appears: "The credit is also available when a taxpayer purchases a vehicle that its original and only use is to operate on an alternative fuel." I understand this sentence to mean that Flex Fuel Vehicles don't qualify for the credit. However, the following phrase is used when describing the list of Alternative Fuel Vehicles by the Department of Energy"....."rebuttable presumption". Do E85 Flex Fuel Vehicles qualify for the credit?

The statute does not preclude or prohibit flex fuel vehicles or E85 flex fuel vehicles from qualifying for the credit. Further, the rule creates a rebuttable presumption that if a flex fuel or E85 flex fuel vehicle is listed on the website of the Department of Energy, then the vehicle is one that meets the standards set forth in the statute and thereby qualifies it for the credit. If your vehicle is not listed on the website, it may still qualify for the credit. However, the Department will have to verify that the

vehicle is really a flex fuel vehicle, emits lower emissions than a gasoline or diesel vehicle and meets or exceeds the federal clean air standards.

3. I purchased a vehicle, new, in March 2010. It was purchased from a car dealership and is equipped to run on E85 flex fuel - ethanol. Does this vehicle qualify me for a Tax Rebate under the Alternative Fuel Tax Credit Rule?

The rule creates a rebuttable presumption that if your vehicle is listed on the website of the Department of Energy, it will qualify for the credit. If your vehicle is not listed on the website, it may still qualify for the credit. However, the Department will have to verify that the vehicle is really a flex fuel vehicle, emits lower emissions than a gasoline or diesel vehicle and meets or exceeds the federal clean air standards.

4. Is the credit limited to 2012 model year vehicles only? C.(1)(a) seems to imply this, but there were 2011 vehicles that were flex fuel vehicles, and probably still some on the lots for sale.

The 2012 vehicle is just the latest model year available on the Department of Energy's website. However, the credit can be taken on qualified flex fuel vehicles that were purchased from the effective date of the statute, which was July 9, 2009.

5. Are only 2012 vehicles listed eligible for the credit?

The 2012 vehicles are just the latest model year available on the Department of Energy's website. However, the credit can be taken on qualified flex fuel vehicles that were purchased from the effective date of the statute, which was July 9, 2009. The rule creates a rebuttable presumption that if a flex fuel or E85 flex fuel vehicle is listed on the website of the Department of Energy, then the vehicle is one that meets the standards set forth in the statute and thereby qualifies it for the credit. If your vehicle is not listed on the website, it may still qualify for the credit. However, the Department will have to verify that the vehicle is really a flex fuel vehicle, emits lower emissions than a gasoline or diesel vehicle and meets or exceeds the federal clean air standards.

6. Does everyone buying and registering a Flex-Fuel vehicle listed in Exhibit A in LA qualify for the 10% credit even if you purchase regular unleaded gas from any gas station OR must you use an alternative fuel such as E85 fuel in order to qualify for the credit?

The statute does not prohibit a vehicle that can run on gas and flex fuel from qualifying for the credit. R.S. 47:6035(B)(3) implies the incremental cost of the equipment that is related to the capability of using an alternative fuel qualifies for the credit; but, the cost that is related to using gasoline does not qualify. In short, the statute does not exclude a vehicle from qualifying for the credit simply because it can operate on gasoline and alternative fuel. However, the credit is limited to the equipment that can operate on the alternative fuel.

7. I just purchased a new flex fuel vehicle and heard I would get a tax credit. How do I get this credit? Do I take this credit on my personal LA tax return or do I have to file a special form to get the credit?

A Revenue Information Bulletin (RIB) is issued under the authority of LAC 61:III.101(D). A RIB is an informal statement of information issued for the public and employees that is general in nature. A RIB does not have the force and effect of law and is not binding on the public or the Department.

The credit can be only claimed on an individual income tax return.

8. Is the effective date of April 30, 2012 for when the return was filed or when the vehicle was purchased?

The rule's effective date does not impact when the return was filed or when the vehicle was purchased. Instead, the effective date of the rule impacts the guidelines under which pending refund claims will be reviewed. In short, refund claims filed after April 30, 2012 will be reviewed using the guidelines set forth in the rule.

9. Is the Department still issuing the Alternative Fuel Credit? For all of those who have received the credit for "Flex Fuel" vehicles, will they have to repay it? Will the taxpayers who have to repay the credits be able to repay in installments without penalty and interest as the LDR's Customer Service Department was advising taxpayers who called to file amended returns claiming the credit for the Flex Fuel vehicles?

LDR is administering and issuing refunds associated with this credit as the statute which enacted the credit is still valid law. In accordance with the statute, flex fuel vehicles are eligible for the credit. So, any credits paid to a taxpayer for eligible flex fuel vehicles will not be subject to recapture, despite any previous notifications or bills issued by LDR. If you received a bill regarding this credit, please contact the Enforcement Section of the Collections Division at 225-219-7448.

Lastly, if there are any additional questions or concerns, please feel free to contact the Call Center at 225-219-0102.

Cynthia Bridges
Secretary